(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

WP NO. 1572 OF 2002

Petitioner: M/s. JK Industries,
Kota-Bilaspur Road, Bharni Parsad,
District Bilaspur,
Through its Proprietor, Rajesh Lamba,
Aged about 33 years,
S/o Shri R.K. Lamba,
R/o Link Road, Bilaspur,
District Bilaspur,
Chhattisgarh State.

Versus

Respondents:

1. Coal India Limited,
Through its Chairman,
10, Netaji Subhash Road,
Kolkata, West Bengal.

2. The Chairman-cum-Managing Director,
South Eastern Coalfields Limited,
10,Seepat Road, Bilaspur,
District Bilaspur, Chhattisgarh State.

3. The General Manager (Sales),
South Eastern Coalfields Limited,
10, Seepat Road, Bilaspur,
District Bilaspur, Chhattisgarh State.

4. The District Trade and Industries Centre,
Through its General Manager,
Collectorate Building,
Bilaspur, District Bilaspur, Chhattisgarh State.

(4)

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WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.No.1572 of 2002

M/s. J.K. Industries

Vs.

Coal India Limited & others

Order

Post for 18.08.2003

Sd/-
Fakhruddin
Judge

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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.No.1572 of 2002

M/s. J.K. Industries

Vs.

Coal India Limited & others

Shri Rohit Arya, Sr. counsel with Shri Sandeep Dubey, counsel for the petitioner.

Shri Dhirendra Mishra with Shri Vimlesh Bajpai, counsel for the respondents No. 1 to 3.

Miss Sofia Khan, Dy. Govt. Advocate for the State/respondent No. 4.

Present:

Hon'ble Shri Justice Fakhruddin

ORDER

(18.08.2003)

Heard finally with the consent of the counsel for the parties.

(01) By this petition filed under Article 226/227 of the Constitution of India, the grievance of the petitioner in this writ petition is for supply of more quantity of coal as per their entitlement. It is submitted that less quantity is being supplied. Case of the respondents is that supply is being made as per entitlement.

(02) The counsel for the petitioner submits that their Industries are based on the Coal Industries; this Industry is

registered as Small Scale Industry by respondent No. 4. It is further submitted that the Industry was established in the year 1995 and supply of coal is being made since 1995. As per linkage letter 18.5.1999 for supply of coal, maximum permissible quantity is 1167 Metric Ton per month to M/s J.K. Industries by the S.E.C.L. *(Annexure P/9).* The petitioner has also filed Letter of Identification for Coal issued by the respondent No. 4 on 03.2.2001 *(Annexure P/2)* and on 9th January, 2002 *(Annexure P/3)* in respect of M/s J.K. Industries wherein the demand/requirements were shown to be less than 1150 metric ton per month.

(03) Counsel for the petitioner submitted that prayer made in this petition is for a direction to respondents No. 1 to 3 to make up the short supply of coal made during the year 2001-2002 as per restored MPQ and that they should continue to supply on the same basis.

(04) Return/reply has been filed on behalf of respondents No. 1 to 3 in which it has been stated that the petitioner has not lifted the coal for preceding 3 years as per their linkage.

(05) In the reply, it has been further stated that it was considered by the Board of Directors of Coal India Ltd., in its 196 meeting after detailed deliberation approved the decision taken in the CMDs meeting held on 2.6.2001, thereby authorizing subsidiary companies to sale entire quantity of coal and coal products as will be available with them after

meeting their qualitative and quantitative requirement of coal to core sector consumers by introducing a suitable system keeping in view the demand and availability of particular grade of coal, the market forces actually in operation, etc. with the objectives of maximizing return to the coal companies. It was also approved that the residual quantity, if any, would be sold to the intending buyers separately. The new policy for sale of coal to non-core sector consumer is being under the formulation stage.

(06) In W.P.No.1571/2002 on 31.1.2003, when the matter was taken up, a statement has been made to the effect that the policy is under consideration, which has been recorded in the order sheet. It is also submitted that coal is now available in the open market and as such the petitioner can obtain coal from the open market. It was also directed to the respondent to file an affidavit indicating therein the basis on which linkage facility is being continued and the basis on which coal is being supplied to customers.

(07) Affidavit has been filed. Then by order dated 25-7-2003, time was granted to the counsel to file new sale policy, which has been filed and the same is taken on record.

(08) Learned counsel for the petitioner submitted that they made a representation on 14-2-2001 *(Annexure-P/10)* in the prescribed brochure, which is still pending.

(09) It is further submitted by counsel for respondents No. 1 to 3 that so far as the matter regarding linkage is concerned, it was challenged in the High Court of Madhya Pradesh in W.P. No.2531/2003 (*M/s. Durga Chemicals Vs. Coal India Limited & Others*). The said petition was decided on 13-5-2003 and copy of the order passed by the M.P. High Court is filed on record. It is submitted that it could not be decided because of policy under preparation and it was publicized.

(10) Heard.

(11) As there is dispute in the petition with respect to quantity of coal to be supplied to the petitioner, let a decision be taken by the respondents in accordance with prevailing policy, in case linkage agreement exists. Let it be considered in an objective manner by the respondents and entitlement be decided by a reasoned and speaking order duly taking into consideration the representation already submitted or a detailed representation which may be submitted within two weeks from today and the representations so made shall be decided as early as possible preferably within two months from today and if required the petitioner may be heard. With this observation this petition is disposed of at this stage.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

vatti/Rao